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Court Deadlocks On Wiretap Suit Against Nixon

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The Supreme Court yesterday deadlocked on the crucial issue of whether presidents and their advisers can be sued for monetary damages when they violate the law.

The court, with Justice William Rehnquist not voting, split 4 to 4 over a damage suit brought by former National Security Council staff aide Morton Halperin against former president Nixon, his attorney general, John N. Mitchell, and his chief of staff, H.R. Haldeman, after Halperin discovered that the Nixon White House had illegally tapped his phones. Rehnquist worked for Mitchell at the time of the taps.

The tie vote automatically affirms the victory Halperin won in the lower court, so he and his family may be able to collect money from Nixon and his former advisers. The issue of the amount, and whether former national security affairs adviser Henry A. Kissinger must also pay, is up to the lower courts.

But tie votes have no impact on other cases and the government's argument, that presidents and their aides should have immunity from such suits, remains unresolved. The government contended that allowing the suits, as the Court of Appeals for the District of Columbia did in the

Halperin case, would seriously threaten presidential power.

The justices may answer the question next year. At the same time that they split on the Halperin case yesterday, they agreed to review a damage suit against Nixon brought by former Pentagon "whistle-blower" A. Ernest Fitzgerald over his dismissal by the Nixon administration.

Mark Lynch, Halperin's American Civil Liberties Union lawyer, said yesterday he believed Halperin would collect his money. But the Supreme Court could hold up any award, and possibly even deny it, depending on when and how the justices resolve the Fitzgerald case next year.